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J- CD containing cell phone video of the shooting.

MISCELLANEOUS DOCUMENTS

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Pico Rivera Sheriff's Station In-Service Sheet for 02-23-12 EM Shift.
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COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

OFFICE CORRESPONDENCE

Date: September 28, 2012
File No.: 012-01486-1515-055

FROM: WILLIAM J. MCSWEENEY, CHIEF
DETECTIVE DIVISION

TO: LEROY D. BACA
SHERIFF

SUBJECT: **LETTER OF OPINION ON DEPUTY INVOLVED SHOOTING**

The attached Letter of Opinion was received from the District Attorney's Office regarding the case involving Sergeant John Castro #[redacted] and Deputies Adrian Reyes #[redacted], Ligia Escalante #[redacted], Maria Lucero #[redacted], and Andres Cantu #[redacted].

STATION: Pico Rivera

DATE / TIME OF SHOOTING: February 22, 2012, 2138 Hours

SUSPECT: LUNA, Eddie Albert
MH/29 (Injured – In Custody)

LOCATION: [redacted] Rosemead Boulevard
Pico Rivera

DISTRICT ATTORNEY'S CONCLUSION:

"The evidence examined in this investigation shows that Eddie Luna was upset with his [redacted] and armed himself with a handgun. Luna called 9-1-1 and notified the police that he was armed and where he was located. When deputies arrived he refused to obey their orders to drop the gun. Luna pointed his gun at the deputies, forcing them to respond with deadly force. Luna admitted initiating the gunfight in an effort to kill himself, because of his [redacted]"

"Sergeant Castro and Deputies Reyes, Escalante, Lucero, and Cantu were put in imminent danger by the actions of Luna. Luna repeatedly disregarded the orders of the deputies and on several occasions brandished his weapon. Finally, Luna removed his weapon and pointed it at the deputies. In fear of their lives and the lives of their fellow deputies, they responded with deadly force."

"We find that Sergeant Castro and Deputies Reyes, Escalante, Lucero, and Cantu acted in lawful self-defense and defense of another when deadly force was used against Eddie Luna. We are therefore closing our file and will take no further action in this matter."

WJM:DS:no



LOS ANGEL_S COUNTY DISTRICT AT_ORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JACQUELYN LACEY • Chief Deputy District Attorney
PATRICK R. DIXON • Assistant District Attorney

JANICE L. MAURIZI • Director

August 7, 2012

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File # 12-0139
L.A.S.D. File # 912-01486-1515-055

Dear Captain Smith,

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 22, 2012, non-fatal shooting of Eddie Alberto Luna by Los Angeles County Sheriff's Sergeant John Castro and Deputies Adrian Reyes, Ligia Escalante, Maria Lucero, and Andres Cantu. We have concluded that the deputies involved in the shooting acted in lawful self-defense and defense of another. Deputies Venus Felix and John Padilla did not fire their service weapons during the incident. This analysis does not focus on their actions.

The District Attorney's Command Center was notified of the shooting on February 22, 2012, at approximately 10:25 p.m. The District Attorney Response Team (Dart), comprised of Deputy District Attorney Fernando Guzman and District Attorney Senior Investigator Norman Weisenstein, responded and was given a briefing of the circumstances of the shooting and a walk-through of the scene.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office by Sergeant Shannon Laren, LASD Homicide Bureau. All of the deputies involved provided voluntary statements to the investigators which were considered as part of this analysis.

FACTUAL ANALYSIS

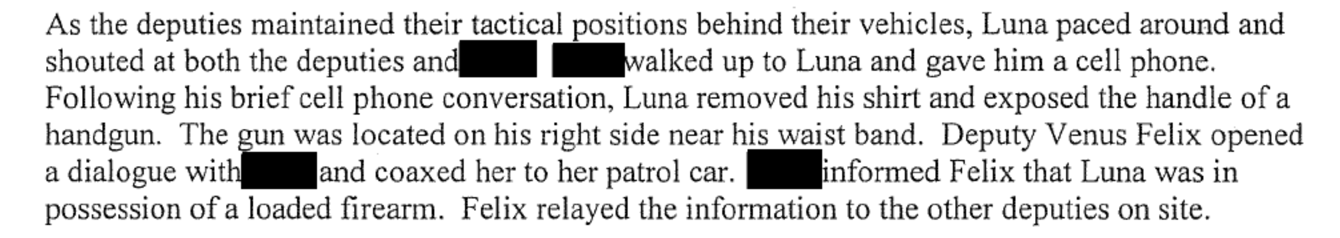
On February 22, 2012, at approximately 9:30 p.m., LASD Sergeant John Castro and Deputies Adrian Reyes, Ligia Escalante, Maria Lucero and Andres Cantu responded to a radio call regarding a man who claimed he had a gun. The 9-1-1 caller, later identified as Eddie Luna, told the dispatcher that he was at the Knight's Inn in the City of Pico Rivera, and he had a handgun. Following Luna's disclosure he hung up the phone. When the dispatcher returned the call, Luna affirmed he had a handgun and was "ready to die."

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Deputy Escalante proceeded to the location. Prior to arrival, Escalante requested tactical support from other deputies in the area. Air unit 21, and other LASD deputies responded.

Deputy Reyes, one of the first deputies to respond, arrived at the location and noticed Luna on the Rosemead Boulevard service road arguing with a woman, later identified as [redacted][1] Reyes approached Luna and attempted to open a dialogue. Luna responded by using profanities and displaying his middle finger to the deputy. Reyes took up a tactical position behind his vehicle and began ordering Luna to comply with his instructions.

Sergeant Castro and Deputies Escalante, Cantu and Lucero arrived at the Knight's Inn moments after Reyes. The deputies took up a tactical position north of Luna. Deputy Reyes armed himself with a semiautomatic rifle and took up a tactical position.



As the deputies maintained their tactical positions behind their vehicles, Luna paced around and shouted at both the deputies and [redacted] [redacted] walked up to Luna and gave him a cell phone. Following his brief cell phone conversation, Luna removed his shirt and exposed the handle of a handgun. The gun was located on his right side near his waist band. Deputy Venus Felix opened a dialogue with [redacted] and coaxed her to her patrol car. [redacted] informed Felix that Luna was in possession of a loaded firearm. Felix relayed the information to the other deputies on site.

Deputy Helbing in AIR 21 observed a black handle on the right side waist band of Luna and conveyed the information to the deputies on the ground. Reyes, Cantu, Escalante, and Lucero identified the location of the gun and continued to order him to comply with their orders. Luna continued to ignore the deputy's commands to drop the gun.

While deputies were behind their cars they ordered Luna to keep his hands in plain view and walk toward them. Luna initially complied and took a few steps toward them. However, Luna stopped and put his right hand down toward his right pants pocket. Once Luna reached into his pocket he turned his back to the deputies and proceeded south away from them. Deputies Padilla, Lucero, and Reyes saw Luna remove a handgun with his right hand as he started to move southbound. Lucero saw Luna point the handgun back in the direction of the deputies.

Sergeant Castro and Deputies Reyes, Escalante, Lucero, and Cantu, in fear for their lives and those around them, fired multiple rounds at Luna. Simultaneously, Luna fired several rounds at the deputies.

After the exchange of gunfire, Luna took a few more steps southbound and fell to the ground. Luna was struck in the right buttock and his left knee. Deputies formed an arrest team and detained Luna. During the arrest deputies recovered Luna's handgun which he had thrown aside. Luna received treatment by paramedics.

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[1] [redacted] was standing on the west sidewalk, in front of the Knight's Inn, several feet from Luna.

The statements of all of the involved deputies were consistent with each other in every material aspect. Deputies John Padilla and Scott Helbing also witnessed the shooting and provided statements that were consistent with the involved deputies.

As Luna was being transported to the hospital in an ambulance he spontaneously stated to Deputy [redacted] "Why didn't you guys just finish the job? That's what I wanted." [redacted] was later relieved at the hospital by Deputy [redacted]. [redacted] heard Luna spontaneously state "I was supposed to die. I wanted her to know I died for her. I called my family and told them I was gonna die. I even shot at the cops and I'm still here." Luna told [redacted] that he got into an argument with his [redacted], [redacted] because he thought she was cheating on him.

Luna later told ICIB investigators that he fired twice, over the heads of the deputies, after they fired at him. He admitted to pulling the gun out of his waistband prior to them firing.

[redacted] is Luna's [redacted]. She was leaving her job at the Knights Inn when Luna approached her and told her that he had a gun.[2] [redacted] sat on the sidewalk with him as Luna yelled. [redacted] watched Luna as he cursed at the deputies and continually flipped them off. [redacted] tried convincing Luna to comply with the deputies' orders but her requests were ineffective. Prior to the shooting, [redacted] left the sidewalk and went with a deputy to a patrol car where she was seated in the back seat. [redacted] heard several gun shots but did not see the shooting.

Other Witness Statements

Following the incident, LASD deputies canvassed the area and obtained statements from multiple individuals. Of the approximately 35 individuals contacted, 15 heard gunshots but did not see the incident. Six persons stated that they saw the shooting. The witness's statements are consistent with each other and with those of the deputies involved.

[redacted] observed Luna standing in the middle of the street and began videotaping the events with his cell phone.[3] [redacted] observed Luna disregarding the deputies' commands. He did not see Luna fire his handgun until he heard the deputies fire two rounds. Upon hearing gunfire, [redacted] saw Luna proceed south, produce a handgun, and open fire at the deputies.

[redacted] saw Luna running south toward the corner liquor store. As Luna proceeded south he saw the deputies discharge their weapons and Luna fall to the ground. [redacted] never saw Luna's handgun.

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[2] He had showed her the gun earlier inside the bar at the Knight's Inn.
[3] The video retrieved from [redacted] cell phone memory depicts only Luna's actions. Luna is seen walking back and forth with his arms waiving about. He suddenly begins running and four muzzle flashes can be seen coming from Luna. He falls to the ground. There is no audio and no other muzzle flashes are seen.

[redacted] saw Luna running south with his right arm across his waist area and his hand pointing back toward the deputies. He saw muzzle flashes come from Luna's right hand and then heard shots fired.[4]

[redacted] saw Luna moving away from the deputies and firing back at them. He does not know who fired first. Luna fell to the ground.[5]

[redacted], [redacted] and [redacted] all witnessed Luna blatantly disregard the orders from the deputies. The witnesses all stated that, prior to any shots being fired, Luna started to run south in a direction away from the deputies.

Luna was treated for gunshot wounds to the left knee area and right buttocks. He has been charged with eight counts of assault on a peace officer with a semiautomatic weapon and one count of possession of a firearm by a convicted felon. The case is pending pretrial in Department 126 of the Los Angeles Superior Court.[6]

The gun which Luna was carrying was a Tokarev 7.62 mm semiautomatic hand gun with one live round in the chamber. Five expended cartridge casings matching that weapon were found near Luna.

CONCLUSION

The use of deadly force in self-defense or in defense of another is justifiable if the person claiming the right actually and reasonably believed (1) that he or the person he was defending was in imminent danger of being killed or suffering great bodily injury, (2) that the immediate use of force was necessary to defend against that danger, and (3) that he used no more force than was reasonably necessary to defend against that danger. [See California Criminal Jury Instructions—CALCRIM 505]

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments - in circumstances that are tense, uncertain, and rapidly evolving - about the amount of force that is necessary in a particular situation. Graham v. Conner, (1989) 490 U.S. 386, 396-97.

The evidence examined in this investigation shows that Eddie Luna was upset with his [redacted] and armed himself with a handgun. Luna called 9-1-1 and notified the police that he was armed and where he was located. When deputies arrived he refused to obey their orders to drop the

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[4] [redacted] saw Luna firing back at the deputies as he was running south. He also saw two muzzle flashes come from the area where the deputies were located.

[5] [redacted] saw Luna start to walk north, toward the deputies, but suddenly turn around and pull out a "pistol." She saw Luna shooting back at the deputies as he ran south. The deputies returned fire.

[6] The case number is VA123795.

gun. Luna pointed his gun at the deputies, forcing them to respond with deadly force. Luna admitted initiating the gunfight in an effort to kill himself, because of his [redacted]

Sergeant Castro and Deputies Reyes, Escalante, Lucero, and Cantu were put in imminent danger by the actions of Luna. Luna repeatedly disregarded the orders of the deputies and on several occasions brandished his weapon. Finally, Luna removed his weapon and pointed it at the deputies. In fear of their lives and the lives of their fellow deputies, they responded with deadly force.

We find that Sergeant Castro and Deputies Reyes, Escalante, Lucero, and Cantu acted in lawful self-defense and defense of another when deadly force was used against Eddie Luna. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

FERNANDO GUZMAN
Deputy District Attorney
(213)974-3888

c: Sgt. John Castro, #[redacted]
Dep. Adrian Reyes, #[redacted]
Dep. Ligia Escalante, #[redacted]
Dep. Maria Lucero, #[redacted]
Dep. Andres Cantu, #[redacted]